

SB0357



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0357

Introduced 2/7/2007, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

New Act

Creates the Underground Aggregate Blasting Act. Provides for the regulation of blasting operations at underground mining sites operated by the aggregate mining industry by the Department of Natural Resources. Sets forth provisions concerning blasting operations and regulation; entry upon land for inspection; new mines and the provision of notice; and administration. Preempts home rule. Effective immediately.

LRB095 10696 RAS 30928 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Illinois Underground Aggregate Blasting Act.

6 Section 5. Statement of Policy. It is declared to be the
7 policy of this State to provide for the protection of lands
8 affected by underground aggregate mining operations by
9 regulating underground blasting to limit property damage to
10 surface landowners and to protect the general welfare.

11 Section 10. Definitions. In this Act:

12 "Aggregate mining industry" means producers, by
13 underground mining method, of all minerals other than coal,
14 including without limitation sand, gravel, silica sand, shale,
15 clay, limestone, and any other mineral which may be so mined
16 for the production of a commodity.

17 "Blasting operations" means the process of shot design,
18 layout, drilling, loading, detonation, and record keeping.

19 "Department" means the Department of Natural Resources.

20 "Operator" means any person, firm, partnership or
21 corporation engaged in and controlling an underground mining
22 operation. "Operator" includes political subdivisions and

1 instrumentalities of this State.

2 "Underground mining" means extraction of all minerals,
3 other than coal, including without limitation sand, gravel,
4 silica sand, shale, clay, limestone, and any other mineral
5 which may be so mined from beneath the surface for the
6 production of a commodity.

7 Section 15. Blasting operations; regulation.

8 (a) Blasting operations at underground mining sites
9 operated by the aggregate mining industry shall be conducted
10 only in accordance with State and federal law and rules adopted
11 by the Department, with the advice of the aggregate mining
12 industry.

13 (b) Rules adopted pursuant to this Section shall be
14 consistent with the Department's rules governing other
15 blasting operations within the State to the extent applicable
16 to underground aggregate blasting and shall include provisions
17 requiring each of the following:

18 (1) The maintenance of blasting records for a period of
19 at least 3 years and that the records be made available for
20 Department inspection and copying; however, these on-site
21 blasting records, as they relate to detonation, are deemed
22 to be proprietary information.

23 (2) The control of blasting operations so as to prevent
24 injury to persons and damage to public and private property
25 outside the blasting site.

1 (3) That all blasting operations be conducted or
2 supervised by trained and competent persons licensed by the
3 Department.

4 (4) That blasting operations be subject to ground
5 vibration monitoring, as necessary to limit property
6 damage and protect public safety.

7 (5) The issuance of notices of violation in the event
8 of a violation of the Department's blasting rules.

9 (6) The issuance of orders requiring the cessation of
10 blasting operations in the event of a violation of the
11 Department's blasting rules that may cause injury to
12 persons or damage to public and private property outside
13 the blasting site.

14 (7) The assessment of civil penalties and the
15 initiation of formal administrative hearings to resolve
16 violations of the Department's blasting rules.

17 (c) The Department shall adopt rules requiring the
18 training, examination, and licensing of persons engaging in or
19 responsible for the blasting operation or use of explosives in
20 underground aggregate mining operations. The rules shall
21 include an administrative enforcement process designed to
22 correct infractions of the terms of blasting licenses issued by
23 the Department. These rules may also include a fee schedule
24 designed to defray the costs associated with the Department's
25 examination and licensing of persons engaging in or responsible
26 for the blasting operation or use of explosives in aggregate

1 mining operations. These rules shall be consistent with the
2 Department's existing rules governing other blasting
3 operations within the State.

4 (d) The initial rules adopted under this Section shall
5 become effective one year after the rules are adopted by the
6 Department.

7 Section 20. Entry upon land for inspection. A designated
8 representative of the Department may enter upon the lands of
9 the operator at all reasonable times for the purpose of
10 inspection in order to determine whether the provisions of this
11 Act have been complied with.

12 Section 25. New mine; notice. Any operator desiring to
13 open a new underground mining operation shall notify the
14 Department of his or her intention before any work is commenced
15 and furnish the Department with a legal description of the
16 proposed location of the mine and the post office address.

17 Section 30. Administration.

18 (a) In addition to the duties and powers of the Department
19 prescribed by the Civil Administrative Code of Illinois, it
20 shall have full power and authority to carry out and administer
21 the provisions of this Act. These powers shall include without
22 limitation the imposition of the following fees to enable the
23 Department to carry out the requirements of this Act:

1 (1) A registration fee of \$300 assessed on July 1 of
2 each calendar year that is due from each operator engaged
3 in and controlling an underground mining operation. The
4 registration fee shall be accompanied by a registration
5 form, provided by the Department, which shall indicate the
6 mailing address and telephone number of the operator, the
7 location of all mining operations controlled by the
8 operator, the minerals being mined, and other information
9 deemed necessary by the Department. A \$300 registration fee
10 is the maximum registration fee due from a single operator
11 each calendar year regardless of the number of sites under
12 the operator's control.

13 (2) An additional fee of \$100 assessed on July 1 of
14 each calendar year for each site that was actively engaged
15 in underground mining during the preceding 12 months that
16 is due from the operator engaged in and controlling the
17 underground mining operation.

18 (3) An additional fee of \$250 assessed on July 1 of
19 each calendar year that is due from each operator engaged
20 in and controlling an underground mining operation where
21 blasting operations occurred during the preceding 12
22 months.

23 (b) Fees shall be assessed by the Department commencing
24 July 1, 2008 for every underground mine operator, active
25 underground mining site, and active underground aggregate
26 blasting operation of record as of that date and on July 1 of

1 each year thereafter. The fees under this Section are in
2 addition to any other fees required by law and shall be
3 deposited into the Aggregate Operations Regulatory Fund.

4 (c) All fees assessed under this Section shall be submitted
5 to the Department no later than 30 days after the date listed
6 on the Department's annual fee assessment letter sent to the
7 underground mine operator. If the operator is delinquent in the
8 payment of the fees assessed under this Section, no further
9 documentation of compliance may be issued to the operator until
10 the delinquent fees have been paid. Moreover, if the operator
11 is delinquent for more than 60 days in the payment of fees
12 assessed under this Section, the Department shall take action
13 to enjoin further underground mining and aggregate blasting
14 operations until all delinquent fees are paid. No liability
15 whatsoever shall accrue to the Department in closing down any
16 operator pursuant to this Section.

17 Section 35. Illinois Administrative Procedure Act. The
18 Illinois Administrative Procedure Act is hereby expressly
19 adopted and shall apply to all administrative rules and
20 procedures of the Department under this Act.

21 Section 40. Severability clause. If any Section,
22 subdivision, clause, sentence, or paragraph in this Act shall
23 be held to be unconstitutional, the unconstitutionality
24 thereof shall not affect the remaining parts of this Act.

1 Section 45. Home rule. The regulation of blasting
2 operations at underground aggregate mining operations is an
3 exclusive power and function of the State. A home rule unit may
4 not regulate blasting operations at underground aggregate
5 mining operations. This Section is a denial and limitation of
6 home rule powers and functions under subsection (h) of Section
7 6 of Article VII of the Illinois Constitution.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.